

Chesapeake Bay Exception CBE-14-041: Xanterra Kingsmill Riverwalk

Staff report for the November 13, 2013 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Stephen Quina, Timmons Group on behalf of Xanterra Kingsmill

Location: 1000 Kingsmill Road

PIN: 5040100001

Lot Size/Zoning: 230 ac. +/-; R4 Residential Planned Community

Area of Lot in RPA: 36 ac +/- (16%)

Watershed: James River, HUC Code JL35

Proposed Activity: Concrete and asphalt multiuse path, timber steps, stone retaining walls, gravel golf cart parking spaces, and a wooden pier and boardwalk

Proposed Impacts

Impervious Cover: Approximately 33,262 sq. ft. (0.76 ac.)
291 sq. ft. retaining walls
360 sq. ft. asphalt path
390 sq. ft. wooden steps
500 sq. ft. gravel parking
20,771 sq. ft. concrete multiuser path
10,950 sq. ft. wooden boardwalk and pier

RPA Encroachment: Approximately 22,312 sq. ft. (0.51 ac.) in RPA buffer
Approximately 10,950 sq. ft. (0.25 ac.) in RPA (James River)

Brief Summary and Description of Activities

Mr. Stephen Quina of the Timmons Group, on behalf of Mr. Kevin Kolda of Xanterra Kingsmill, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA and RPA buffer for the installation of an asphalt and concrete multiuse path, wooden steps, retaining walls, gravel parking, and a wooden boardwalk and pier. The

shoreline was previously stabilized with a defensive riprap revetment structure permitted under W-04-98. In the design of that stabilization project, a 20 foot wide maintenance bench was created along a portion of the shoreline. The stated purpose of this project is to develop passive recreational facilities along the Kingsmill Resort's waterfront for accessibility by resort guests and club members. These passive recreational facilities consist of a boardwalk, pier, multiuse path for golf carts, bicycles, and pedestrians, and a pedestrian only path.

The project proposes to mitigate for the upland disturbances by revegetating the grassy slope with a combination of trees and shrubs in the amount of 49 planting units (1 canopy tree, 2 understory trees, and 3 shrubs per planting unit). The project also proposes to mitigate the landward impervious cover with a series of dry swale BMP's that capture and filter the first flush of runoff coming off of the multiuse path. An additional component of this project is to encompass the mitigation requirements for RPA impacts that were realized with the development of the Cottages on the James project and the removal of the former par 3 golf course. This requires an additional 18 planting units. The project meets the County mitigation requirements.

Staff Evaluation

The stated purpose of the project is to develop passive recreational facilities along the waterfront of the resort with the multiuser path accessible to golf carts, bicycles, and pedestrians. The James City County Chesapeake Bay Preservation Ordinance, under Section 23-13 (c), does allow for exemptions for passive recreational facilities such as boardwalks, trails, and pathways. However, State guidance documents developed to specifically address this issue states that the term passive implies low impact and minimum disturbance to natural areas and that a locality shall not grant an *exemption* for a project that includes the installation of excessive amounts of impervious cover (more than necessary at afford relief), proposes excessive land disturbance, or the removal of a significant amount of buffer vegetation. Furthermore, the guidance document goes on to state that passive recreation does not include the use of motorized vehicles such as golf carts, structures such as gazebos and piers or any activity that causes significant vegetation loss or involves the installation of excessive amounts of impervious cover (*Riparian Buffers Modification & Mitigation Guidance Manual, Chesapeake Bay Local Assistance Department, September 2003, Chapter 4, Passive Recreation Facilities Exemption*). Staff believes that the RPA encroachments could be minimized by placing the majority of the multiuse trail outside (landward) of the RPA at the edge of the upper slope and the boardwalk to the edge of existing riprap, landward of the James.

Staff has evaluated the application and exception request for all work as described above. The proposal is for passive recreational facilities (multiuse path, boardwalk, and pier) and appurtenant structures (gravel parking and retaining walls). Staff considers this application to not be in compliance with Section 23-13 (c), Exemptions for Resource Protection Areas, because the activity is not passive recreation as defined previously, the activity could be located further outside of the RPA, and there is excessive land disturbance and impervious cover. Staff finds that the application has met the conditions in Sections 23-11 and 23-14, and that the application should be heard by the Board because these items are accessory structures, do not fall under passive recreation, and/or are excessive in nature. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and has explained the project in great detail in the various attachments.

Consideration by the Chesapeake Bay Board


The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-14-041 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-14-041 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **severe** for the proposed development. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions applied:

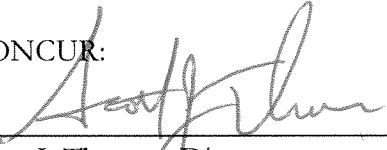
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Full implementation of siteplan SP-0086-2013, once approved by the various county agencies; and
3. Surety of \$50,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings; and
4. This exception request approval shall become null and void if construction has not begun by November 13, 2014; and
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:



Michael Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package